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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

SMITHKLINE BEECHAM CORPORATION
d/b/a GLAXOSMITHKLINE,

Plaintiff,

vs.

ABBOTT LABORATORIES,

Defendant.

Case No. C07-5702 (CW)

**JOINT PRETRIAL CONFERENCE
STATEMENT**

Date: January 7, 2015
Time: 2:00 p.m.
Courtroom: 2
Judge: Hon. Claudia Wilken

1 Pursuant to this Court's Standing Order for Pretrial Preparation and the schedule set by the
2 Court at the Case Management Conference on November 13, 2014, as amended by the scheduling
3 order on December 22, 2014 (Dkt. # 594), Plaintiff SmithKline Beecham d/b/a GlaxoSmithKline
4 ("GSK"), and Defendant Abbott Laboratories ("Abbott"), respectfully submit this Joint Pretrial
5 Conference Statement.

6 **1. Stipulation Regarding Prior Submissions To The Court In Conjunction With**
7 **Prior Trial**

8 The parties have met and conferred on the subject of avoiding duplication of prior filings
9 to the extent it is their respective intent, in conjunction with the retrial in this matter, to rely upon
10 submissions in conjunction with the initial trial, including motions *in limine*, exhibit lists, witness
11 lists, discovery designations, and objections. The parties are preparing a detailed stipulation
12 addressing the adoption of pretrial submissions from the initial trial while preserving any existing
13 right of a party to propose, or to oppose the other party's proposal of, additions and/or
14 modification to a prior submission. The parties intend to finalize and file a stipulation on this
15 subject prior to the Case Management Conference on January 7, 2015.

16 **2. Additional Motions In Limine**

17 The only additional motion *in limine* being filed at this juncture is Abbott's motion to
18 preclude Plaintiff from presenting five witnesses who were not disclosed in GSK's witness list in
19 connection with the prior trial. That motion *in limine* and GSK's opposition thereto are being filed
20 concurrently with the filing of this document, on December 31, 2014.

21 To the extent that previously-undisclosed witnesses are permitted, the parties reserve their
22 respective rights to file additional *in limine* motions addressing the proposed testimony of, and
23 other evidence relating to, such witnesses.

24 **3. Jury Questionnaire, Jury Instructions and Verdict Form.**

25 The parties have met and conferred regarding the jury questionnaire, jury instructions and
26 verdict form. The parties' proposed modifications to the versions of these documents from the
27 initial trial, as well as each party's respective objections to the other party's proposed
28 modifications are exhibits hereto, as follows:

- Attached hereto as **Exhibit A** are GSK's proposed modifications to the jury questionnaire, Abbott's objections thereto, and GSK's responses.
- Attached hereto as **Exhibit B** are Abbott's proposed modifications to the jury questionnaire, to which GSK has not objected.
- Attached hereto as **Exhibit C** are GSK's proposed modifications to the jury instructions, Abbott's objections thereto, and GSK's responses.
- Attached hereto as **Exhibit D** are Abbott's proposed modifications to the jury instructions, GSK's objections thereto, and Abbott's responses.
- Attached hereto as **Exhibit E** are GSK's proposed modifications to the verdict form, Abbott's objections thereto, and GSK's responses.
- **Reservations of Rights**

In light of GSK's request to add new witnesses for the retrial, each party reserves its rights to modify its witness and exhibit lists and proposed jury instructions, verdict form and voir dire and to file additional motions *in limine* after it has completed discovery relating to any new witnesses or evidence allowed by the Court.

Additionally, each party reserves the right to introduce the prior trial testimony of any witness who testified at the original trial to the extent permissible under the federal rules.

Finally, the parties have agreed to meet and confer regarding exhibits evidencing market data post-dating the prior trial.

Date: December 31, 2014

Respectfully submitted,

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GENERAL ORDER 45 ATTESTATION

I , Keith R.D. Hamilton, am the ECF User whose ID and password was used to file this Joint Stipulation Regarding Pretrial Submissions. In compliance with Civil Local Rule 5.1 (i)(3), I hereby attest that the counsel listed above concurred in this filing.

DATED: December 31, 2014

/s/ Keith R.D. Hamilton
Keith R.D. Hamilton